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THE BANK OF NEW YORK MELLON FKA THE BANK OF
NEW YORK SUCCESSOR TRUSTEE TO JPMORGAN CHASE
BANK, N.A., AS TRUSTEE FOR THE BEAR STEARNS ALT-A
TRUST, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2005-04

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION

In re
JEFFREY S. BEIER,
Debtor.

Case No. 8:23-bk-10898-TA

Chapter 7

**REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF OPPOSITION TO
MOTION TO RECONSIDER ORDER
OVERRULING DEBTOR'S
OBJECTION TO PROOF OF CLAIM 2-
1 FILED BY THE BANK OF NEW
YORK MELLON, FKA THE BANK OF
NEW YORK SUCCESSOR TRUSTEE
TO JPMORGAN CHASE BANK, N.A.,
AS TRUSTEE FOR THE BEAR
STEARNS ALT-A TRUST, MORTGAGE
PASS-THROUGH CERTIFICATES,
SERIES 2005-04 [DOCKET NUMBER
134]**

DATE: March 5, 2024
TIME: 11:00 a.m.
CTRM: 5B

411 West Fourth Street
Santa Ana, CA 92701

The Bank of New York Mellon, FKA The Bank of New York Successor Trustee to
JPMorgan Chase Bank, N.A., as Trustee for the Bear Stearns ALT-A Trust, Mortgage Pass-
Through Certificates, Series 2005-04 ("BONY") respectfully requests that the Court take judicial

notice of the records and pleadings more particularly described below pursuant to the provisions of Rule 201(b) and Rule 201(d) of the Federal Rules of Evidence.

- **Exhibit A:** Declaration of Jae Min in Support of Opposition to Objection to Proof of Claim 2-1 Filed by the Bank of New York Mellon, FKA The Bank of New York Successor Trustee to JPMorgan Chase Bank, N.A., as Trustee for the Bear Stearns ALT-A Trust, Mortgage Pass-Through Certificates from Bankruptcy Case No. 8:23-bk-10898-TA filed at Docket No. 126.
- **Exhibit B:** PACER docket for U.S. Bankruptcy Court Case No. 8:23-bk-10898-TA in the Central District of California, Santa Ana Division.
- **Exhibit C:** A copy of the Chapter 7 Trustee's Motion for Order: (1) Authorizing Sale of Real Property Free and Clear of Liens and Interests Pursuant to 11 U.S.C. §363(f); (2) Approving Overbid Procedures; (3) Approving Broker Compensation; (4) Authorizing Distribution of Sale Proceeds; (5) Determining that the Proposed Buyer and Overbidder Are "Good Faith Purchasers" Under 11 U.S.C. Section 363(m); and (6) Waiving 14 day Stay Imposed by Federal Rule of Bankruptcy Procedure 6004(h) filed in Bankruptcy Case No. 8:23-bk-10898-TA.
- **Exhibit D:** A copy of the Opposition to Chapter 7 Trustee's Motion for Order: (1) Authorizing Sale of Real Property Free and Clear of Liens and Interests Pursuant to 11 U.S.C. §363(f); (2) Approving Overbid Procedures; (3) Approving Broker Compensation; (4) Authorizing Distribution of Sale Proceeds; (5) Determining that the Proposed Buyer and Overbidder Are "Good Faith Purchasers" Under 11 U.S.C. Section 363(m); and (6) Waiving 14 day Stay Imposed by Federal Rule of Bankruptcy Procedure 6004(h) filed in Bankruptcy Case No. 8:23-bk-10898-TA.
- **Exhibit E:** A copy of the Order Granting Chapter 7 Trustee's Motion for Order: (1) Authorizing Sale of Real Property Free and Clear of Liens and Interests Pursuant to 11 U.S.C. §363(f); (2) Approving Overbid Procedures; (3) Approving Broker Compensation; (4) Authorizing Distribution of Sale Proceeds; (5) Determining that the Proposed Buyer and Overbidder Are "Good Faith

Purchasers” Under 11 U.S.C. Section 363(m); and (6) Waiving 14 day Stay Imposed by Federal Rule of Bankruptcy Procedure 6004(h) filed in Bankruptcy Case No. 8:23-bk-10898-TA.

- **Exhibit F:** A copy of the Objection to Proof of Claim 2-1 Filed by the Bank of New York Mellon, FKA The Bank of New York Successor Trustee to JPMorgan Chase Bank, N.A., as Trustee for the Bear Stearns ALT-A Trust, Mortgage Pass-Through Certificates Series 2005-04; Declaration of Jeffrey Beier filed in Bankruptcy Case No. 8:23-bk-10898-TA.
- **Exhibit G:** A copy of the Opposition to the Objection to Proof of Claim 2-1 Filed by the Bank of New York Mellon, FKA The Bank of New York Successor Trustee to JPMorgan Chase Bank, N.A., as Trustee for the Bear Stearns ALT-A Trust, Mortgage Pass-Through Certificates Series 2005-04.
- **Exhibit H:** A copy of the Order Overruling Debtor’s Objection to Proof of Claim 2-1 Filed by the Bank of New York Mellon, FKA The Bank of New York, Successor Trustee to JPMorgan Chase Bank, N.A., as Trustee for the Bear Stearns ALT-A Trust, Mortgage Pass-Through Certificates, Series 2005-04.
- **Exhibit I:** A copy of the Transcript of Proceedings for the hearing on the Objection to Proof of Claim 2-1 Filed by the Bank of New York Mellon, FKA The Bank of New York Successor Trustee to JPMorgan Chase Bank, N.A., as Trustee for the Bear Stearns ALT-A Trust, Mortgage Pass-Through Certificates Series 2005-04 in Bankruptcy Case No. 8:23-bk-10898-TA on January 9, 2024.
- **Exhibit J:** A copy of the Motion to Reconsider Order Overruling Debtor’s Objection to Proof of Claim 2-1 Filed by the Bank of New York Mellon, FKA The Bank of New York, Successor Trustee to JPMorgan Chase Bank, N.A., as Trustee for the Bear Stearns ALT-A Trust, Mortgage Pass-Through Certificates, Series 2005-04 [Docket Number 134].
- **Exhibit K:** A copy of the Supplemental Memorandum of Mortgage Electronic Registration Systems, Inc. in Support of Motion for Relief from Stay filed in

Bankruptcy Case No. 8:08-bk-12163-RK.

- **Exhibit L:** Better Business Bureau website reflecting the business profile for the law firm of Miles, Bauer, Bergstrom & Winters available at:
<https://www.bbb.org/us/ca/costa-mesa/profile/attorney-advertising/miles-bauer-bergstrom-winters-1126-13155083>.

Pursuant to Federal Rule of Evidence 201, the court may take judicial notice of adjudicative facts, which are “either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b). Notably, the Court may “take judicial notice of facts that are a matter of public record.” *Hefner v. Chao*, 2009 WL 2485754, *1 (S.D. Cal. 2009); *Lee v. City of Los Angeles*, 250 F. 3d 668, 689 (9th Cir. 2001); *Mack v. South Bay Beer Distrib.*, 798 F. 2d 1279, 1282 (9th Cir. 1986) (overruled in part on other grounds by *Astoria Federal Sav. and Loan Ass'n v. Solimino*, 501 U.S. 104 (1991)).

The Court may take judicial notice of Exhibits A through L because these documents are a matter of public record.

Respectfully submitted,

Dated: February 20, 2024

ALDRIDGE PITE, LLP

/s/ Joseph C. Delmotte (SBN 259460)

Joseph C. Delmotte
Attorneys for Respondent/Secured Creditor THE
BANK OF NEW YORK MELLON FKA THE
BANK OF NEW YORK SUCCESSOR TRUSTEE
TO JPMORGAN CHASE BANK, N.A., AS
TRUSTEE FOR THE BEAR STEARNS ALT-A
TRUST, MORTGAGE PASS-THROUGH
CERTIFICATES, SERIES 2005-04

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
8880 Rio San Diego Drive, Suite 725 San Diego, CA 92108

A true and correct copy of the foregoing document entitled: **Request For Judicial Notice In Support Of Opposition To Motion To Reconsider Order Overruling Debtor's Objection To Proof Of Claim 2-1 Filed By The Bank Of New York Mellon, Fka The Bank Of New York Successor Trustee To JPMorgan Chase Bank, N.A., As Trustee For The Bear Stearns Alt-A Trust, Mortgage Pass-Through Certificates, Series 2005-04 [Docket Number 134]** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On *(date)* February 20, 2024, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

U.S. TRUSTEE:

ustpregion16.sa.ecf@usdoj.gov

U.S. TRUSTEE'S ATTORNEY:

Michael J Hauser Michael.hauser@usdoj.gov

ATTORNEY FOR DEBTOR:

David R Haberbush dhaberbush@lbinsolvency.com
Lane K Bogard lbogard@lbinsolvency.com

TRUSTEE:

Arturo Cisneros- arturo@mclaw.org

TRUSTEE'S ATTORNEY:

Nathan F. Smith- nathan@mclaw.org

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On *(date)* February 20, 2024, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

PRESIDING JUDGE:

Honorable Theodor Albert
U.S. Bankruptcy Court Central District Of California
(Santa Ana)
Ronald Reagan Federal Building and Courthouse
411 West Fourth Street, Suite 5085 / Courtroom 5B
Santa Ana, CA 92701-4593

DEBTOR:

Jeffrey S Beier
P O Box 7644
Laguna Niguel, CA 92677

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on *(date)* _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

2/20/2024

Lauren Timby

/s/ Lauren Timby

Date

Printed name

Signature

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.